

**SERIAL 05063 RFP BEHAVIORAL HEALTH AND EMPLOYEE ASSISTANCE SERVICES**

**DATE OF LAST REVISION: June 21, 2006**

**CONTRACT END DATE: June 30, 2010**

**CONTRACT PERIOD THROUGH JUNE 30, 2010**

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **BEHAVIORAL HEALTH AND EMPLOYEE ASSISTANCE SERVICES**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **June 21, 2006 (Eff. 07/01/07)**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

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Wes Baysinger, Director  
Materials Management

SD/mm  
Attach

Copy to: Clerk of the Board  
Pat Vancil, Total Compensation  
Mike Schaiberger, Total Compensation  
Mirheta Muslic, Materials Management

(Please remove Serial 01178-RFP and 02077-RFP-S from your contract notebooks)



## CONTRACT PURSUANT TO RFP

SERIAL 05063-RFP

This Contract is entered into this 7<sup>TH</sup> day of June, 2006 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and Magellan Behavioral Health, Inc., a Delaware corporation ("Contractor") for the purchase of Behavioral Health and Employee Assistance Program services.

### 1.0 TERM

- 1.1 This Contract is for a term of three (3) years, beginning on the 1st day of July, 2007 and ending the 30<sup>th</sup> day of June, 2010.
- 1.2 The County may, at its option and with the agreement of the Contractor, extend the period of this Contract for additional terms up to a maximum of three (3) years. The County shall notify the Contractor in writing of its intent to extend the Contract period at least thirty (30) calendar days prior to the expiration of the original contract period, or any additional term thereafter.

### 2.0 PAYMENT

- 2.1 As consideration for performance of the duties described herein, County shall pay Contractor the sum(s) stated in Exhibit A based on pricing assumptions in Exhibit A-1.
- 2.2 Payment shall be made upon the County's receipt of a properly completed invoice. Invoices shall contain the following information: Contract number, purchase order number, item numbers, description of services, quantities, unit prices, and extended totals.

### 3.0 DUTIES

- 3.1 The Contractor shall perform all duties and provide all services stated in Exhibit "B."
- 3.2 The Contractor agrees to the performance guarantees in Exhibit B-1, which may be re-negotiated on an annual bases.
- 3.3 The Contractor agrees to the implementation schedule in Exhibit B-2, which may be changed with the agreement of both parties.

### 4.0 TERMS & CONDITIONS

#### 4.1 INDEMNIFICATION:

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions or mistakes relating to the performance of this Contract. Contractor's duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting there from, caused by any negligent acts, errors, omissions or mistakes in the performance of this Contract including any person for whose acts, errors, omissions or mistakes Contractor may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of County.

#### 4.2 INSURANCE REQUIREMENTS:

Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed, possessing a current A.M. Best, Inc. rating of B++6 or with companies with policies and forms satisfactory to the County.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.

Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the right of the County to indemnification or other recourse under this contract.

The Contractor shall be solely responsible for deductibles and/or self-insured retentions under its insurance mechanisms.

The County reserves the right to request and to receive, within 10 working days, certificates of insurance and copies of applicable policy Endorsements evidencing proof of insurance coverage required under this contract

The Contractors Commercial General Liability insurance policy required by this Contract shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insured's and shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.

##### 4.2.1 Commercial General Liability.

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage.

##### 4.2.2 Workers' Compensation.

Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 each employee, and \$1,000,000 aggregate policy limit.

##### 4.2.3 Certificates of Insurance.

4.2.3.1 Prior to commencing work or services under this Contract, Contractor shall have insurance in effect as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full

force and effect. Such certificates or copies of shall be made available to the County upon 48 hours notice. **BY SIGNING THE AGREEMENT PAGE THE CONTRACTOR AGREES TO THIS REQUIREMENT AND UNDERSTANDS THAT FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF THIS CONTRACT.**

In the event any insurance policy (ies) required by this Contract is (are) written on a "claims made" basis, coverage shall extend for two (2) years following termination of this contract.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

4.2.3.2 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

4.5 INTERNET CAPABILITY:

It is the intent of Maricopa County at its option, to utilize the Internet to communicate under this Contract.

4.6 NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:  
Maricopa County  
Department of Materials Management  
Attn: Director of Purchasing  
320 West Lincoln Street  
Phoenix, Arizona

For Contractor:  
Magellan Behavioral Health, Inc.  
Attn: Legal Office  
14100 Magellan Plaza  
Maryland Heights, Missouri 63043

4.7 REQUIREMENTS CONTRACT:

Contractor signifies its understanding and agreement by signing this document that this Contract is a requirements contract. This Contract does not guarantee any minimum or maximum participation.

4.8 PRICE ADJUSTMENTS:

Any requests for reasonable price adjustments must be submitted 270 days prior to the Contract expiration date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the Consumer Price Index or by performing a market survey, but in no case can exceed the Rate Cap for years 4, 5, and 6 (see Exhibit A). The Contractor may request a price increase as set forth in Exhibit A-1. Any request shall be approved in writing by the County prior to being effective.

4.9 TERMINATION FOR CONVENIENCE:

The County reserves the right to terminate the Contract in whole or in part at any time, when in the best interests of the County without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the County. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

**4.10 TERMINATION FOR DEFAULT:**

4.10.1 In addition to the rights reserved in the Contract, the County may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

4.10.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County on demand.

4.10.3 The County may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the County for any excess costs incurred by the County in procuring materials or services in substitution for those due from the Contractor.

4.10.4 The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

**4.11 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:**

Notice is given that pursuant to A.R.S. §38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S §38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

**4.12 OFFSET FOR DAMAGES:**

In addition to all other remedies at law or equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

**4.13 ADDITIONS/DELETIONS OF SERVICE:**

The County reserves the right to add and/or delete products and/or services provided under this Contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If additional services and/or products are required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

**4.14 SUBCONTRACTING:**

The Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County, which shall not be unreasonably withheld. All correspondence authorizing subcontracting must reference the Proposal Serial Number and identify the job project.

**4.15 AMENDMENTS:**

All amendments to this Contract must be in writing and signed by both parties.

**4.16 RETENTION OF RECORDS:**

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

**4.17 AUDIT DISALLOWANCES:**

If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

**4.18 ALTERNATIVE DISPUTE RESOLUTION:**

4.18.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

4.18.1.1 Render a decision;

4.18.1.2 Notify the parties that the exhibits are available for retrieval; and

4.18.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

4.18.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.

4.18.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in

the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

**4.19 SEVERABILITY:**

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

**4.20 RIGHTS IN DATA:**

The County shall own have the use of all data and reports resulting from this Contract without additional cost or other restriction except as provided by law. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

**4.21 INTEGRATION:**

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

**4.22 GOVERNING LAW:**

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

**CONTRACTOR**

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
PRINTED NAME AND TITLE

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
DATE

**MARICOPA COUNTY**

BY: \_\_\_\_\_  
DIRECTOR, MATERIALS MANAGEMENT

\_\_\_\_\_  
DATE

BY: \_\_\_\_\_  
CHAIRMAN, BOARD OF SUPERVISORS

\_\_\_\_\_  
DATE

**ATTESTED:**

\_\_\_\_\_  
CLERK OF THE BOARD

\_\_\_\_\_  
DATE

**APPROVED AS TO FORM:**

\_\_\_\_\_  
DEPUTY MARICOPA COUNTY ATTORNEY

\_\_\_\_\_  
DATE

**EXHIBIT A**

SERIAL 05063-RFP

PRICING SHEET: S073603/B0605750/NIGP 94848

BIDDER NAME:	MAGELLAN BEHAVIORAL HEALTH, INC.
VENDOR #:	W000006227
BIDDER ADDRESS:	22 NOD ROAD, AVON, CT. 06601
P.O. ADDRESS:	SAME
BIDDER PHONE #:	214-692-3846
BIDDER FAX #:	214-692-3864
COMPANY WEB SITE:	<a href="http://WWW.MAGELLANHEALTH.COM">WWW.MAGELLANHEALTH.COM</a>
COMPANY CONTACT (REP):	WILLIAM DEHAAS
E-MAIL ADDRESS (REP):	<a href="mailto:WFDEHAAS@MAGELLANHEALTH.COM">WFDEHAAS@MAGELLANHEALTH.COM</a>

WILLING TO ACCEPT FUTURE SOLICITATIONS VIA EMAIL: NO

ACCEPT PROCUREMENT CARD: NO

INTERNET ORDERING CAPABILITY: NO

OTHER GOV'T. AGENCIES MAY USE THIS CONTRACT: NO

PAYMENT TERMS:

NET 10, AFTER END OF MONTH

**1.0 PRICING:**

**BEHAVIORAL HEALTH AND EAP - PER SUBSCRIBER PER MONTH**

Fixed Annual Rate Increases	YEAR 1	YEAR 2	YEAR 3	RATE CAP YEAR 4	RATE CAP YEAR 5	RATE CAP YEAR 6
1.1 EMPLOYEE	\$ 8.74	\$ 9.30	\$ 9.90	8%	8%	8%
1.2 EE + SPOUSE	\$ 16.36	\$ 17.42	\$ 18.62	8%	8%	8%
1.3 EE+CHILDREN	\$ 13.70	\$ 14.58	\$ 15.58	8%	8%	8%
1.4 EE+SPOUSE AND CHILDREN	\$ 21.30	\$ 22.72	\$ 24.28	8%	8%	8%

**BEHAVIORAL HEALTH ONLY - PER SUBSCRIBER PER MONTH**

1.5 RETIREES POST 65	\$ 12.92	\$ 13.82	\$ 14.80	8%	8%	8%
1.6 RETIREES PRE 65	\$ 15.20	\$ 16.26	\$ 17.40	8%	8%	8%

**1.7 EAP ONLY - PER EMPLOYEE PER MONTH**

\$ 1.12	\$ 1.16	\$ 1.20	4%	4%	4%
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**2.0 ASO PRICING:**

**BEHAVIORAL HEALTH - PER SUBSCRIBER PER MONTH**

YEAR 1	YEAR 2	YEAR 3			
\$ 2.36	\$ 2.44	\$ 2.52	4%	4%	4%

Note: ASO Pricing assumes that the vendor will charge a fee per Subscriber for claims administration and that the County will pay actual claims as the emerge. It also assumes that the vendor will include the network of providers designed and managed by the same vendor. The ASO pricing does not expect a separate contract for or a separate provider network



3.0 LABOR RATES

3.1 ADDITIONAL TRAINING, ABOVE HOURS IN EXHIBIT B	<u>\$140.00</u>	PER HOUR
3.2 ADDITIONAL CISM HOURS, ABOVE HOURS IN EXHIBIT B	<u>\$190.00</u>	PER HOUR
3.3 HOME-MAILINGS OF FLIERS-2 PER CONTRACT YEAR (OPTIONAL)	<u>\$ 0.06</u>	PER EMPLOYEE PER MONTH
3.4 ASO CLAIMS ADMINISTRATION > 6 MONTHS AFTER CONTRACT TERMINATION	<u>\$ 5.00</u>	PER CASE CLAIM PROCESSED

**EXHIBIT A-1**

**Pricing assumptions/adjustments 1, 2, 3, AND 4 APPLY TO FULLY INSURED OPTION.  
NUMBER 4 APPLIES TO SELF INSURED (ASO) OPTION.**

Contractor and the County will, upon written notice by either to the other, renegotiate one or more rates set forth on Exhibit A, upon the occurrence of any of the following:

1. the Group Health Plan is amended to modify the benefit plan design of Behavioral Health Services and Contractor or the County demonstrates that such amendment or change materially affects the cost and expense of services provided or to be provided by Contractor;
2. a change in state or federal regulation or law could reasonably be expected to materially affect the cost or expense of providing the services under this Contract;
3. the utilization or claim cost data provided in connection with RFP 05063, varies materially from actual utilization or claim cost data for the period(s) reported, as determined by an independent audit of the data provided; or
4. the total number of Employees eligible for EAP and/or managed Behavioral Health Services decreases by ten percent (10%) or more, or increases by twenty percent (20%) or more, from the following:

EAP Services	14,500
Managed Behavioral Health Services	11,237

**EXHIBIT B**  
**STATEMENT OF WORK**

**1.0 Definitions**

The following terms shall have the meanings specified below.

- 1.1 Behavioral Health Condition: a nervous, mental, or substance abuse condition that (a) is clinically significant behavior or a psychological syndrome or pattern; (b) is associated with present distress or substantial or material impairment of the patient's ability to function in one or more major life activities (for example, employment); (c) is not merely an expectable response to a particular event (for example, the death of a loved one); and (d) is listed as an Axis I disorder, other than a V-Code of the DSM-IV, or its replacement.
- 1.2 Behavioral Health Service: psychiatric or other mental health service to identify or treat a Behavioral Health Condition.
- 1.3 Brief Counseling: a problem-focused form of individual or family outpatient counseling that (a) seeks resolution of problems in living (e.g., parenting concerns, emotional stress, marital and family distress, alcohol- and drug-related problems) rather than basic character change; (b) emphasizes counselee skills, strengths and resources; (c) involves setting and maintaining realistic goals that are achievable in a one to five month period; (d) encourages counselees to practice behavior outside the counseling session to promote therapeutic goals; and (e) in which the counselor provides structure, interprets behavior, offers suggestions, and assigns "homework" activities.
- 1.4 Covered Dependent: an individual whose relationship to a Subscriber is the basis for the individual's eligibility to enroll in the Group Health Plan and who is so enrolled.
- 1.5 Covered Services: Medically Necessary Behavioral Health Services that are covered medical expenses under the Group Health Plan.
- 1.6 Crisis Counseling: the process of responding to a request for immediate services in order to determine whether an emergency exists and, based on that determination, of making a referral to emergency Behavioral Health Services, to community resources, or to an EAP Counselor. Crisis Counseling includes communication with the person in crisis that is focused on defusing the person's severe emotional reaction to a situation in order to enable that person to accept the referral and deal with the immediate crisis without causing harm to self or others.
- 1.7 Critical Incident Stress Management ("CISM") Services: a response to and consultation in connection with a sudden, unanticipated, traumatic incident or circumstance occurring at the workplace (e.g., accident, death, threat of violence, natural disaster) that produces a high degree of distress in the affected workplace of the County or an immediate or delayed emotional reaction in employees, that surpasses normal coping mechanisms.
- 1.8 Emergency Treatment: Covered Services to treat sudden, unexpected acute symptoms of mental illness or substance abuse of sufficient severity such that a Member who possesses an average knowledge of health and medicine could reasonably expect that the absence of immediate medical attention would result in serious injury to life or limb and/or immediate jeopardy to the Member's health.
- 1.9 Employee Assistance Program ("EAP"): a systematic program to help individuals resolve personal problems, such as family conflict, stress, and drug or alcohol abuse, and address

common work/life issues, and to provide training, consultation, and other management services relating to the effective utilization of the EAP by the County and its employees.

- 1.10 EAP Consultant: a licensed behavioral health professional employed by Contractor at its service center to respond telephonically to Participant and Member requests for EAP services.
- 1.11 EAP Counselor: a Provider who is under contract with Contractor to provide EAP services and who has (a) training and experience in assessing substance abuse problems and in conducting focused, problem-resolution counseling and (b) at least a master's level degree in the appropriate field.
- 1.12 EAP Covered Employee: an active employee of the County who is not enrolled in the Group Health Plan.
- 1.13 Employee: a Subscriber or an EAP Covered Employee.
- 1.14 Episode of Care: a continuous course of counseling for a specific problem or set of problems, up to the number of In-person Sessions specified in Section 2.2.2 of this Exhibit B.
- 1.15 Group Health Plan: the group health plan maintained by the County for its employees and their eligible dependents to provide benefits for diseases and conditions.
- 1.16 Household Member: an individual who physically resides with in an EAP Covered Employee's household on a permanent basis, or an unmarried dependent child of an EAP Covered Employee, whether or not residing with the EAP Covered Employee.
- 1.17 In-person Session: a fifty (50) minute counseling session at the office of an EAP Counselor for a Participant or Member, individually or with Household Members, Covered Dependents or others, as appropriate for the individual's concern.
- 1.18 Medical Necessity or Medically Necessary: a determination in the judgment of Contractor that a particular Behavioral Health Service meets the criteria for medical necessity set forth in the Group Health Plan, or in the absence of such criteria, meets all of the following: (a) the service is consistent with the diagnosis and treatment of a Behavioral Health Condition; (b) the service is provided in accordance with generally accepted standards of behavioral health professional practice; (c) the service is required for other than the convenience of the Member, the Member's family or the Provider; and (d) the type, level and length of services are needed to provide safe and adequate care and are reasonably likely to improve the Member's condition and not merely maintain the current level of functioning. For inpatient stays, this means that the Member's symptoms or condition require(s) that the Member cannot receive safe and adequate care as an outpatient or in another less intensive setting.
- 1.19 Member: a Subscriber or a Covered Dependent who permanently resides in the United States. Members are eligible for both EAP services and managed Behavioral Health Services, provided that, Subscribers who are retirees and their related Covered Dependents are eligible for managed Behavioral Health Services only.
- 1.20 Participant: an EAP Covered Employee or a Household Member who permanently resides in the United States. Participants are eligible for EAP services only.
- 1.21 Participating Provider: a Provider that contracts with Contractor to deliver Behavioral Health Services to members of group health plans for which Contractor provides services.

- 1.22 Provider: a health care provider as defined in the Group Health Plan or, in the absence of a definition in the Group Health Plan, a psychiatrist, psychologist, licensed chemical dependency therapist, licensed psychiatric nurse, social worker (licensed or accredited by the Academy of Clinical Social Workers), licensed marriage, family and child counselor or a facility, licensed or certified under the laws of the state in which services are rendered.
- 1.23 Subscriber: an individual whose status, other than family relationship to another individual, is the basis for the individual's eligibility to enroll in the Group Health Plan and who is enrolled in accordance with the eligibility standards of the Group Health Plan.
- 1.24 Summary Plan Description or "SPD": a document prepared by or on behalf of the County and/or the Group Health Plan Administrator for distribution to its Members that describes the benefit and eligibility provisions and operations of the Group Health Plan.

## **2.0 Description of Services**

Contractor will provide an integrated EAP and managed Behavioral Health Services program with a single point of access for all eligible Employees, Dependents and Household Members. The services to be provided by Contractor pursuant to the Contract will include the following:

- 2.1 Contractor Web Site. Contractor will provide the County, Participants and Members with access to its Web site, which has been customized with certain County-specific information, and which includes information on wellness subjects, general health information, workplace topics for organizations, interactive self-improvement programs, interactive self-assessment tools, on-line training programs, a database of child and elder care providers, a directory of EAP Counselors, and a directory of Participating Providers. In addition, Members may access Contractor's Web site to obtain their respective claims history and status of any pending claims filed for managed Behavioral Health Services. Access can be accomplished through the internet and a link on the County's intranet.
- 2.2 EAP Services.
  - 2.2.1 Policy and Procedure Development. Working with the County, Contractor will assist in the development of an EAP policy statement to serve as the basis for all EAP activity. The policy statement and any resulting procedures will clearly delineate the County's philosophy regarding the limits of responsibility associated with personal problems of employees, the goals of the EAP, and the respective roles of supervisors and employees.
  - 2.2.2 Personal Consultation Services. Contractor will maintain a toll-free telephone access line, with TTY/TDD communication capability, 24 hours per day, 7 days per week for Participants and Members to access services. Contractor's staff will include male and female EAP Consultants and no less than one (1) Spanish-speaking EAP Consultant, two (2) alcohol and drug counselors certified by the state of Arizona, and one (1) PhD-level psychologist licensed by the state of Arizona. Contractor will use its best efforts to employ EAP Consultants who are CEAP certified or CEAP eligible. Translation services will be readily available for those callers who do not speak English or Spanish. EAP Consultants will be available through the telephone access line to determine the caller's eligibility for EAP and/or managed Behavioral Health Services and arrange for appropriate assistance (e.g., forward via e-mail or facsimile transmission educational materials and/or refer to an EAP Counselor, Participating Provider or other benefit plan, or community resource). In addition, EAP Consultants will provide Crisis

Counseling. Contractor will link each Participant or Member who requests in-person counseling services to an EAP Counselor. In-person Sessions will be available by appointment on weekdays, evenings, and Saturdays at the offices of EAP Counselors nationwide. Subject to the scheduling preferences of the Member or Participant, such appointments will be offered within two (2) days in urgent situations and within five (5) days for routine needs. The EAP Counselor will assess the individual's problems and, in accordance with the EAP Counselor's best judgment, provide Brief Counseling and/or refer the Participant or Member to an appropriate treatment provider and/or community resource. Each Participant or Member is eligible for up to eight (8) In-person Sessions per problem per year, as clinically appropriate. Participants and Members will have access to clinical EAP services through self-referral, supervisor referral, human resources referral and mandatory referral.

- 2.2.3 DOT/SAP Services. Magellan will maintain a network of qualified Substance Abuse Professionals ("SAP"), as such term is defined by U.S. Department of Transportation regulations set forth at 49 CFR Part 40, Subpart O. Upon referral from the County of an Employee with a report of substance abuse whose job is safety-sensitive or otherwise subject to DOT regulations, Contractor will refer the Employee to a SAP for appropriate assessment and evaluation of the Employee's use of drugs and/or alcohol. The results of the assessment and any education, treatment, follow-up testing and after-care recommendations will be reported to the County by the SAP in accordance with established procedures, which at all times shall comply with applicable DOT regulations.
- 2.2.4 Short Term Disability Services. Contractor will coordinate case management services with the County's short term disability benefits vendor ("STD Vendor") to ensure that an Employee with a mental health and/or substance abuse disability has access to appropriate treatment providers and care. Contractor's services will consist of the following: educating and training the STD Vendor on the nature and scope of Contractor's services; case reviews of those Employees identified by the STD Vendor in connection with a mental health or substance abuse diagnosis, including without limitation, the appropriateness of care, type of treatment provider, any needed interventions, identification of return to work indicators and a recommendation regarding the application for benefits; any necessary coaching of the Employee, Employee's manager, Employee's treatment provider and/or the STD vendor to assist in the Employee's successful return to work; limited follow-up with the Employee and Employee's manager at defined intervals; identification by Contractor of Employees who may be disabled; and evaluation of Employee outcomes and trends to identify opportunities for program improvement. In addition, Contractor will place one (1) outbound telephone call to an Employee identified by the STD Vendor as having a secondary mental health diagnosis or an undiagnosed but suspected behavioral health issue (anxiety, depression, stress, etc.) to advise such Employee of the EAP and managed Behavioral Health Services available and the means by which such services may be accessed. All services will be conditioned upon receipt by Contractor of any appropriate authorizations to use and/or disclose Employee information.
- 2.2.5 Treatment Compliance Monitoring. Upon request and with the concurrence of the Employee, Contractor will monitor an Employee's compliance with a substance abuse treatment program, monthly as needed, for up to one (1) year.
- 2.2.6 Management Consultation. Upon request, Contractor will provide consultation to any manager or supervisor considering the referral of an employee to the EAP and will assist the manager or supervisor in the "supportive confrontation" process as needed. In the case of a supervisor-referred employee, Contractor will remain in regular contact

with the referring supervisor regarding work performance issues. Contractor will also provide consultation regarding management of high-risk situations in which an employee's personal problems may create a threat of violence in the workplace. As appropriate and to the extent authorized by an employee or as otherwise permitted by law, Contractor will provide consultation on the process required to facilitate an employee's return to work. Any advice or recommendations made during the course of consultations provided to management pursuant to this paragraph is not and shall not be construed as a legal opinion.

- 2.2.7 Seminars and Training. Contractor will provide the County with unlimited access to Contractor's standard on-line training programs, which may be accessed through Contractor's Web site. In addition, at the request of the County, Contractor will provide up to 100 hours per contract year, which may be used for on-site wellness seminars, employee education or supervisor training, including supervisor training related to alcohol and drug abuse in the workplace designed to promote the County's compliance with the training requirements of the Drug-Free Workplace Act of 1988 and the U.S. Department of Transportation regulations set forth at 49 CFR Part 40 ("Training Hours") at no additional cost to the County. The County will give Contractor a minimum of three (3) weeks advance notice to provide such services. Unless otherwise agreed by Contractor and the County, all Training Hours shall be delivered at a County worksite. Training Hours in excess of those set forth in this section will be available for a supplemental fee at the rate indicated on Exhibit A. Training Hours include the costs of local travel and standard instructional materials. Travel in excess of fifty (50) miles from the office of the Contractor representative to the worksite and customized training materials, if any, will be reimbursed by the County in accordance with standard County policies and mileage rates. In the event that any service is scheduled and subsequently canceled with less than a minimum notice of five (5) business days, the County will be billed or debited as if the scheduled services had been delivered.
- 2.2.8 Critical Incident Stress Management. At the request of the County, Contractor will provide up to twenty (20) sessions per contract year of CISM Services to Employees to counter emotional distress caused by catastrophic or traumatic events and to foster sharing of reactions, normalizing of reactions, and education on appropriate coping strategies at no additional cost to the County. Contractor's CISM staff will respond telephonically to a request for CISM Services by the County within thirty (30) minutes. CISM Services will be available within two (2) hours of a request for services from the County and, unless otherwise agreed by Contractor and the County, delivered at a County worksite. CISM Services in excess of the number of hours set forth in this section will be available for a supplemental fee at the rate indicated on Exhibit A. CISM Services include the costs of local travel. Travel in excess of fifty (50) miles from the office of the Contractor representative to the County worksite will be reimbursed by the County in accordance with standard County policies and mileage rates. In the event that any CISM session is scheduled and subsequently canceled with less than a minimum notice of seventy-two (72) hours, the County will be billed or debited as if the scheduled services had been delivered. Contractor will also provide one-on-one telephonic coaching to assist senior County executives with leadership, team issues and management optimization after a traumatic event. Telephonic outreach from Contractor's executive coach will be made within twenty-four (24) hours of a request for services and on-going telephonic coaching will proceed until the executive coaching goals have been achieved. Such executive coaching services will be delivered without charge and will not be debited against the twenty (20) prepaid critical incident debriefing sessions.

- 2.2.9 Legal and Financial Consultation Services. Contractor will provide legal and financial consultation services through a third party legal and financial services vendor. Legal consultation services consist of free initial telephonic or in-person consultation for routine legal needs with a plan attorney located in the Participant's or Member's state of domicile ("Legal Consultation Services"). During the consultation, the plan attorney will explain the individual's rights, identify options, and, if needed, recommend a course of action. The individual will choose whether to retain the attorney at his or her expense, seek alternative counsel, or adopt an alternative plan of action. Participants and Members who elect to retain legal counsel after the initial consultation will be entitled to a twenty-five percent (25%) reduction in fees from the plan attorney's normal hourly rate and/or fee schedule, as applicable. Financial consultation services include telephonic information and consultation on debt management, basic financial planning, insurance, retirement, savings and investments, budgeting for vacations, family financial issues and identity theft ("Financial Consultation Services"). Participants and Members may access Legal Consultation Services and Financial Consultation Services by calling the Contractor toll-free telephone number. Contractor will link callers directly to the call center of its Legal Consultation Services and/or Financial Consultation Services vendor during the vendor's normal business hours, Monday through Friday (excluding legal holidays) from 9:00 a.m. to 8:00 p.m. (Eastern Time). At all other times, at the request of the individual, Contractor will arrange for such vendor(s) to contact the Participant or Member during the vendor's normal business hours. The vendor(s) will gather information regarding the issues for which consultation is sought. For Legal Consultation Services, individuals will be linked to a plan attorney by telephone or referred to a plan attorney for an in-person appointment. For Financial Consultation Services, the vendor will connect callers with a financial counselor or arrange for a financial counselor to call the individual. There is no restriction on the number of times an individual may use Legal Consultation Services or Financial Consultation Services, however, Legal Consultation Services are not intended to provide an individual with continuing access to a plan attorney in order to undertake his or her own representation. Financial Consultation Services are intended to assist individuals in formulating financial planning strategies and to serve as an information resource and planning tool. Financial consultants will not advise nor instruct individuals as to any course of action, nor be responsible for any decisions made by individuals about their financial planning. Excluded Legal Consultation Services are services (i) in connection with employment-related or business-related matters, (ii) in connection with disputes or proceedings involving Contractor, its subsidiaries, affiliates or customers, a Participant's or Member's employer, Contractor's legal and/or financial services vendor(s) or any of its attorneys, or (iii) that are frivolous, harassing, or otherwise involve violation of ethical rules.
- 2.2.10 Run-Off Services. For a period of thirty (30) days following termination of this Contract, Contractor agrees to provide In-person Sessions, so long as In-person Sessions remain available and are clinically appropriate, to those individuals with open routine cases as of the effective date of termination. Any open mandatory referrals to the EAP will be transitioned to a successor vendor or other Provider on a case by case basis.
- 2.2.11 Liability for Payment. No individual Participant or Member shall be obligated in any way to pay Contractor or EAP Counselors for EAP services rendered by Contractor or EAP Counselors during the term of the Contract, including the payment of premium, deductibles, copayments, or co-insurance. Every contract between Contractor and its EAP Counselors states that in the event that Contractor fails to pay an EAP Counselor, Participants and Members shall not be liable to that EAP Counselor for any sums owed by Contractor. However, if an individual chooses to receive EAP services from a



provider other than an EAP Counselor, Contractor will not pay the provider for services rendered to such individual, and the individual may be liable to the provider for the cost of services.

2.3 Behavioral Health Services. Contractor will administer the managed Behavioral Health Services described in the applicable SPD.

2.3.1 Provider Network. Contractor shall maintain a network of Participating Providers to provide Covered Services to Members. The network shall include the full continuum of care, including inpatient facilities, alternate levels of care, and outpatient services. The number and type of professional disciplines of Participating Providers shall be sufficient to afford to each Member a choice of Participating Providers, as clinically appropriate, provided, however, the parties acknowledge that for Members in communities that are not major metropolitan areas, it is possible that the choice of Participating Providers and/or the convenience to Members may be limited due to the lower concentration of Providers in such areas. Where necessary, Contractor will enter into an ad hoc arrangement with a Provider in order to assure Member access to Covered Services. In the event that Contractor enters into such ad hoc arrangements, the resulting claims will be paid at the in-network basis. All Participating Providers will be credentialed in accordance with Contractor's credentialing policies and practices, which will at all times meet or exceed the standards promulgated by the National Committee for Quality Assurance for Managed Behavioral Healthcare Organizations.

2.3.2 Access to Covered Services - General. Members may contact Contractor through the dedicated toll-free telephone number described in Section 2.2.2 to request emergency assistance, access to treatment, information on the identity and location of Participating Providers, or a determination of Medical Necessity. When a Member calls to request access to treatment for a Behavioral Health Service, Contractor shall telephonically verify Member eligibility for managed Behavioral Health Services, determine the appropriate type of treatment, and as clinically appropriate, refer the Member to a Participating Provider.

2.3.3 Access to Covered Services - Emergency. Except as otherwise described in this section, Members shall call Contractor at the toll-free number prior to obtaining Emergency Treatment. As clinically appropriate, Contractor will refer the Member to a Participating Provider for Emergency Treatment or to a Participating Provider to initiate non-emergency treatment. If the Member's condition does not reasonably permit telephone contact with Contractor in advance of obtaining Emergency Treatment, the Member may obtain Emergency Treatment from any qualified, licensed Provider, provided, however, that the Member contacts Contractor promptly after Emergency Treatment is sought. Except where the Group Health Plan specifies a different time, such contact must occur within twenty-four (24) hours after Emergency treatment is first sought, unless due to the Member's incapacity it was not reasonably possible to communicate with Contractor within that time, in which case, contact shall be initiated as soon as reasonably possible after the Member regains capacity.

2.3.4 Utilization Management. Contractor shall maintain a utilization management program, in its sole and absolute discretion, for the purpose of assessing whether Behavioral Health Services are Medically Necessary and appropriate. The utilization management program will include, as appropriate, pre-admission certification, concurrent review certification, and case management. Contractor will furnish Members notice of its determinations in accordance with any applicable requirements promulgated by the state of Arizona.

- 2.3.5 ASO Claims Administration and Funding. Contractor shall process and pay claims for Covered Services rendered by Participating Providers and non-Participating Providers, and issue all explanations of benefits and similar notices to claimants. Contractor will maintain a zero-balance checking account from which Contractor will pay approved claims. On no less than a weekly basis, Contractor will notify the County of the claims ready for disbursement, and the County will wire or cause to be wired to the bank account an amount sufficient to cover all of such claims. On a monthly basis, Contractor shall prepare an alphabetical register of all paid claims, in an Excel-compatible format, which will include, without limitation, the draft number, Subscriber name, claimant name, payee name, amount of draft, date claim incurred and date claim paid. Contractor shall perform the claims administration services described in this paragraph for a period of six (6) months after termination of the Contract at no additional charge to the County for those Covered Services provided to Members during the term of this Contract. Contractor will continue to perform such claims administration services after expiration of the six-month period at the request of the County and for a supplemental fee at the rate indicated on Exhibit A.
- 2.3.6 Risk Claims Administration and Funding. Contractor shall establish and maintain a claims account to be funded by the County in accordance with the applicable amounts set forth on Exhibit A. Contractor shall process any claims for Covered Services rendered by Participating Providers and non-Participating Providers, issue all explanation of benefits and similar notices to claimants and pay claims from the claims fund. On a monthly basis, Contractor shall prepare an alphabetical register of all paid claims, in an Excel-compatible format, which will include, without limitation, the draft number, Subscriber name, claimant name, payee name, amount of draft, date claims incurred and date claim paid.
- 2.3.7 Appeals. Contractor shall maintain a process for the review and appeal of Medical Necessity and appropriateness determinations and claims administration in accordance with any applicable requirements promulgated by the state of Arizona. Contractor shall review and process appeals after termination of the Contract at no additional charge to the County for those appeals filed within twelve (12) months of the effective date of termination. Contractor will continue to process appeals after expiration of the twelve-month period at the request of the County and for a supplemental fee to be mutually agreed upon by the parties.
- 2.4 Reports. Contractor will maintain records for each individual who contacts Contractor for services. Subject to any applicable federal, state and local privacy laws, Contractor will provide the County one or more statistical reports, in an Excel-compatible electronic format, of individual utilization of services, to include such data elements and program parameters as mutually agreed upon by the parties. Utilization reports will be provided on a quarterly and year-to-date basis and reflect aggregate data by County department and employment status as mutually agreed upon by the parties; reports will not include individual-identifiable information. Upon request, Contractor will provide customized reports exclusively designed for the County for an additional fee to be mutually agreed upon by the parties. Annually, Contractor will also provide annual reports, audited financial statements and an SAS 70 audit report of Contractor's claims system. Upon termination of the Contract, Contractor will furnish such historical claims and program information as reasonably required by the County to transition services to a new vendor.
- 2.5 User Evaluation. Participants and Members utilizing Contractor's personal consultation, utilization management and selected other services will be afforded an opportunity to anonymously evaluate those services using one (1) or more survey tools, as mutually agreed upon by the parties. Each Participant and Member who utilizes In-person Sessions or managed

Behavioral Health Services will be given a satisfaction survey at or near the time the initial services are rendered, and those Participants and Members who agree to be contacted for such purpose, will receive a second survey sometime thereafter in accordance with procedures mutually agreed upon the parties. Supervisors making referrals to the EAP will also have an opportunity to anonymously evaluate the effectiveness of the EAP as a supervisory tool. County-specific results will be included in the standard utilization reports provided to the County pursuant to Section 2.4 of this Exhibit B.

- 2.6 Employee Communications Program. Contractor will, together with the County, develop a communications program to promote the EAP and managed Behavioral Health Services. Contractor will work closely with the County in designing all communications intended for general distribution to be consistent with both the needs of employees and the timing of benefit announcements. Communication materials in print format will be produced in sufficient quantities to meet the County's needs for existing and future employees and will include the following: EAP program brochures, at a rate of 1.3 per Employee; EAP posters, at a rate of 1 per 150 Employees; EAP supervisor handbook, at a rate of 10% of the number of Employees; and EAP employee and supervisor videos, at a rate of 1 per 500 Employees, but no more than 10 each. Upon mutual agreement of the parties, certain materials may be posted on Contractor's and/or the County's Web sites and/or provided via push e-mails. Contractor will also make available its standard electronic communications, including, without limitation, quarterly newsletters, monthly health observance tip sheets, and other topical behavioral wellness information and articles. The County agrees that Contractor's obligation under this section does not include (i) non-standard or customized Contractor promotional materials and (ii) the costs of postage and stationary associated with home mailings. At the request of the County, Contractor will provide home mailings of communication materials at the rate set forth on Exhibit A. In addition to general communication materials, Contractor will draft, produce and mail or otherwise distribute to Subscribers a Summary Plan Description for the EAP and managed Behavioral Health Services at no additional charge to the County.
- 2.7 Orientations and Health Fairs. At the request of the County, Contractor will attend up to 120 hours of on-site County benefit fairs, health or wellness fairs, orientations or similar County-sponsored events designed to promote the EAP and provide information on managed Behavioral Health Services. Contractor will furnish tabletop set-ups at such events as well as an adequate supply of the Contractor's standard print communication materials. Additional orientation and health fair services are available for a supplemental fee at the rate indicated on Exhibit A.
- 2.8 Coordination of Care. As needed, Contractor will coordinate services and cooperate in case management activities with the County's medical, pharmacy and disability vendors, insurers and/or benefit administrators ("Health Benefit Vendors") to promote Member and Participant access to appropriate treatment providers. Contractor will also cooperate in the development of mixed services protocols with the County's medical services insurer and in distinguishing covered medical services from covered Behavioral Health Services. To the extent allowed by law and in accordance with applicable business associate and/or data transfer agreements, Contractor will share pertinent health information with the County's Health Benefit Vendors. Upon initiation and termination of Contractor's services under the terms of this Contract, Contractor will reasonably cooperate with the County's outgoing and incoming EAP and/or managed behavioral health vendors, respectively, in accordance with accepted industry practices in order to avoid any interruption in the continuity of care to Members and Participants.

- 2.9 Audits. The County shall have the right to audit those Contractor records as are reasonably necessary to establish whether Contractor has complied with its obligations under this Contract. Audits will be conducted during normal business hours upon no less than thirty (30) days' notice. Contractor agrees that County shall have the right to select the auditor and that the auditor shall determine the sample for audit. Magellan will cooperate with the auditor and provide the records and Contractor staff time reasonably required to carry out such audit at no additional cost to the County, provided, however, Magellan shall not be obligated to pay the costs of an outside auditor. Notwithstanding the foregoing, if at any time the County has a reasonable belief that it is being systematically overcharged or double-billed under this Contract, or that any other significant accounting irregularities exist, the County may conduct or hire an agent to conduct an audit of Contractor's books and records with respect to this Contract and such audit will be undertaken at Contractor's expense.

### **3.0 Limitations and Exclusions**

- 3.1 EAP Services. Contractor has no obligation under the Contract to provide or arrange for any of the following in connection with EAP services:
- 3.1.1 Evaluations required by any state or federal judicial officer or other governmental official or agency mandating that a Participant or Member undergo counseling;
  - 3.1.2 Court-mandated counseling; evaluations or recommendations to be used in child custody proceedings, child abuse proceedings, criminal proceedings, workers' compensation proceedings, or any legal actions of any kind;
  - 3.1.3 Evaluations for fitness for duty determinations or excuses for leaves of absence or time off;
  - 3.1.4 Medical care, including services for a condition that requires psychiatric treatment (for example, a psychosis);
  - 3.1.5 Inpatient treatment;
  - 3.1.6 Services by providers who are not part of Contractor's EAP Counselor network;
  - 3.1.7 EAP sessions that were not accessed through Contractor (either through the toll-free telephone access line or the on-line self-referral service) for the particular Episode of Care;
  - 3.1.8 Psychological, psychiatric, neurological, educational, or IQ testing;
  - 3.1.9 Remedial and social skills education services, such as evaluation or treatment of learning disabilities, learning disorders, academic skill disorders, language disorders, mental retardation, motor skill disorders, or communication disorders; behavioral training; cognitive rehabilitation;
  - 3.1.10 Medication or medication management;
  - 3.1.11 Examinations and diagnostic services in connection with obtaining employment or a particular employment assignment, admission to or continuing in school, securing any kind of license (including professional licenses), or obtaining any kind of insurance coverage;
  - 3.1.12 Testimony in legal proceedings or creation of records for legal proceedings or other preparation for legal proceedings;
  - 3.1.13 Guidance on workplace issues when the Participant or Member sues, or threatens to sue, the County;
  - 3.1.14 Acupuncture;
  - 3.1.15 Biofeedback or hypnotherapy; and
  - 3.1.16 Gatekeeping to the behavioral health component of the County's Group Health Plan.
- 3.2 Behavioral Health Services. Contractor has no obligation under the Contract to provide or arrange for any of the following in connection with managed Behavioral Health Services:

- 3.2.1 Any service, supply or treatment not covered under the Group Health Plan or listed on the Schedule of Benefits in the SPD;
- 3.2.2 In-network treatment that has not been pre-authorized by the Contractor, except for Emergency Treatment;
- 3.2.3 Any court-ordered treatment or therapy, or any treatment ordered as a condition of parole, probation, or custody or visitation evaluation, unless such treatment is Medically Necessary;
- 3.2.4 Treatment of organic mental disorders associated with permanent dysfunction of the brain except for acute exacerbations of the condition;
- 3.2.5 Remedial and social skills education services, such as treatment of developmental disorders (including, but not limited to, learning disabilities, learning disorders, academic skills disorders, developmental language disorder, motor skills disorders, or communication disorders), except pervasive developmental disorders and autism, for which treatment is covered; behavioral training; cognitive rehabilitation;
- 3.2.6 Treatment of any condition categorized as an Axis II condition under the then current Diagnostic and Statistical Manual of the American Psychiatric Association without any clinical likelihood of improvement, except for acute exacerbations of the condition;
- 3.2.7 Developmental, corrective, and other supportive services in connection with developmental disabilities (for example, speech-language pathology, audiology services, physical therapy, occupational therapy, therapeutic recreation, and social work services, including orientation and mobility services) and services aimed at the development of employment and other adult living objectives or the acquisition of daily living skills;
- 3.2.8 Examinations and diagnostic services in connection with obtaining employment or a particular employment assignment, admission to or continuing in school, securing any kind of license (including professional licenses), or obtaining any kind of insurance coverage;
- 3.2.9 Counseling for activities of an educational nature, including academic or vocational counseling, guidance, or placement services;
- 3.2.10 Counseling for borderline intellectual functioning, including mental retardation, except in connection with acute behavioral or emotional symptoms of mental retardation;
- 3.2.11 Counseling for occupational problems;
- 3.2.12 Marriage counseling, except for treatment of a Behavioral Health Condition;
- 3.2.13 Counseling related to consciousness-raising;
- 3.2.14 Vocational or religious counseling;
- 3.2.15 Psychological testing, unless such testing is integral to diagnosis or treatment of a Behavioral Health Condition;
- 3.2.16 Treatment of detoxification in newborns;
- 3.2.17 Treatment of obesity;
- 3.2.18 Acupuncture;
- 3.2.19 Biofeedback and hypnotherapy;
- 3.2.20 Prescription or non-prescription drugs, unless specified in the Schedule of Benefits or prescribed in the course of Medically Necessary inpatient treatment for a Behavioral Health Condition;
- 3.2.21 Laboratory tests, pharmacy services and ancillary services, unless provided during the course of Medically Necessary inpatient treatment or emergency room treatment for a Behavioral Health Condition;
- 3.2.22 Health care services, treatment or supplies provided as a result of a Workers' Compensation law or similar legislation or obtained through, or required by, any governmental agency or program, whether federal, state or any subdivision thereof or caused by the conduct or omission of a third party for which the Member has a claim for damages or relief, unless such Member provides Contractor with a lien against such claim for damages or relief in a form and manner satisfactory to Contractor;

- 3.2.23 Health care services, treatment, or supplies for military service disabilities for which treatment is reasonably available under governmental health care programs;
- 3.2.24 Health care services, treatment, or supplies rendered to a member that are not Medically Necessary;
- 3.2.25 Health care services, treatment, or supplies primarily for rest, custodial, domiciliary or convalescent care;
- 3.2.26 Services, treatment or supplies determined to be experimental;
- 3.2.27 Room and board that is not required in connection with inpatient treatment for a Behavioral Health Condition;
- 3.2.28 Private hospital rooms and/or private duty nursing, unless determined to be Medically Necessary and authorized by Contractor; and
- 3.2.29 More than one treatment service by the same Provider to the same Member on the same day unless the two services rendered are different types of therapy (for example, individual therapy and group therapy).

#### 4.0 Coverage

- 4.1 Commencement and Termination of EAP Services. The eligibility of an Employee for EAP services under this Contract shall commence on the first day of his or her employment by the County on or after the Contract effective date. A Household Member or Covered Dependent shall commence eligibility on the later of the date he or she becomes a Household Member or Covered Dependent and the date on which the Employee becomes eligible. The eligibility of an Employee for EAP services under the Contract shall terminate on the earlier of the last day of the month following the month of his or her termination of employment by the County or termination of the Contract. Household Members and Covered Dependents shall remain eligible for EAP services until the eligibility of the Employee related to them ceases or until they cease to be Household Members or Covered Dependents, whichever occurs first. However, subject to Section 2.2.10 of Exhibit B, each individual will be entitled to receive the full number of In-person Sessions identified in Section 2.2.2 of Exhibit B for an identified problem, as clinically appropriate, if he or she has scheduled an appointment with an EAP Counselor for that problem prior to the last date of eligibility as specified in this section. Contractor reserves the right to terminate the eligibility of any Participant or Member, without right of reinstatement, for fraud or deception in the use of EAP services or for knowingly permitting such fraud or deception by another, for threatening the safety of Contractor employees, EAP Counselors, or others eligible for or receiving EAP services and for repeated behavior substantially interfering with Contractor's ability to furnish or arrange services for such individual or others or the ability of an EAP Counselor to provide services to others. Any such termination will be effective on the date Contractor mails notice of cancellation, unless the notice specifies a later date. Contractor will not terminate the eligibility of any individual because of his or her health status or use of the EAP. An individual Participant or Member does not have the right to renew his or her eligibility for services under this Contract once his or her relationship (employment or otherwise) to the County is terminated. An individual's right to receive such services is determined solely by this Contract.
- 4.2 Commencement and Termination of Behavioral Health Services. The eligibility of a Member for Covered Services under the Contract is defined in the Group Health Plan. After termination of their eligibility, qualified individuals may continue to receive services under the Contract in accordance with COBRA. Except as described in this paragraph, a Member does not have the right to renew or reinstate his or her eligibility for services under the Contract once his or her relationship to the Group Health Plan or the County is terminated. Rights to Covered Services are not transferable.

## 5.0 Insurance/Self-Insured Option

Annually, prior to each open enrollment period, the County may review the risk arrangement for managed Behavioral Health Services and, in its sole option, exercise the right to change from a self-insured/administrative services only product to an insured product or from an insured product to a self-insured/administrative services only product. Any such change will require written notice to Contractor no less than 120 days prior to the beginning of the subject contract year. If, at any time, managed Behavioral Health Services are delivered on an insured basis: (i) Magellan Life Insurance Company shall automatically be added as a party to the Contract and all references to Contractor in the Contract shall mean, collectively, Magellan Behavioral Health, Inc. and Magellan Life Insurance Company, and (ii) Section 2.3.5 of this Exhibit B shall have no force or effect for so long as managed Behavioral Health Services are delivered on an insured basis, and (iii) claims administration and funding shall be handled in accordance with Section 2.3.6 of this Exhibit B.

MAGELLAN LIFE INSURANCE COMPANY

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

## EXHIBIT B-1

### Performance Guarantees

	Guarantee Description	Measurement Criteria
<b>Member Satisfaction</b>	<p>1. EAP User Satisfaction: Satisfaction with Contractor Services Received</p> <p>If Contractor fails to satisfy users of the EAP such that at least 90% of the County's Members and Participants who respond to the EAP client satisfaction survey express overall satisfaction with services received, the County may impose a penalty on Contractor of 0.25% of the EAP fees at risk for each percentage point below 90%, up to an annual maximum of 1.5% of the EAP fees at risk during the subject contract year, provided, however, such penalty may be imposed only if the number of respondents to the survey is 50 or more in the subject contract year.</p> <p><b>2. Managed Behavioral Health Services User Satisfaction: Satisfaction with Contractor Services Received</b></p> <p>If Contractor fails to satisfy users of its managed Behavioral Health Services such that at least 87.5% of County Members who respond to the client satisfaction survey express overall satisfaction with services received, the County may impose a penalty on Contractor of 0.25% of the managed Behavioral Health Service fees at risk for each percentage point below 87.5%, up to an annual maximum of 1.5% of the managed Behavioral Health Services fees at risk in the subject contract year, provided, however, such penalty may be imposed only if the number of respondents to the survey is 75 or more in the subject contract year.</p>	<p><u>Administration Methodology:</u> The survey is mailed to the EAP Counselor's office with the pre-certification materials. The EAP Counselors are instructed to distribute the survey to the client.</p> <p><u>Measurement Methodology:</u> Overall satisfaction is measured by tabulating the number of account specific respondents that give a positive rating to the single overall satisfaction with services question on the questionnaire divided by number of respondents to that particular question.</p> <p><u>Administration Methodology:</u> An annually administered, mail-based survey.</p> <p><u>Measurement Methodology:</u> Overall satisfaction is measured by tabulating the number of account specific respondents that give a positive rating to the single overall satisfaction with services question on the questionnaire, divided by number of respondents to that particular question.</p>
<b>Administrative Efficiency</b>	<p><b>3. Average Speed of Answer (ASA)</b></p> <p>If Contractor fails to ensure that the average speed of answer of calls answered by an EAP Consultant on the County toll-free telephone line is 30 seconds or less, the County may impose a penalty on Contractor of 0.25% of the managed Behavioral Health Services fees and 0.25% of the EAP fees at risk for each second greater than 30 seconds, up to an annual maximum of 1.5% of the managed Behavioral Health Services fees and EAP fees at risk during the subject contract year.</p>	<p><u>Measurement Methodology:</u> Total number of seconds to answer all calls on the toll-free telephone line used for County Members and Participants divided by the total number of calls answered on that telephone line, subtracting out the number of seconds used for phone leader.</p> <p><u>Measurement Methodology:</u></p>



	<p><b>4. Call Abandonment</b> If Contractor fails to ensure that fewer than 5% of callers abandon their calls after completion of any appropriate leader greeting on the toll-free telephone line used for County Members and Participants, the County may impose a penalty on Contractor of 0.25% of the managed Behavioral Health Services fees and 0.25% of the EAP fees at risk for each percentage point greater than 5%, up to an annual maximum of 1.5% of the managed Behavioral Health Services fees and EAP fees at risk during the subject contract year.</p> <p><b>5. Timeliness of 1st Appointments : Satisfaction with Contractor Services Received</b> If Contractor fails to satisfy users of its services such that at least 90% of Members and Participants who respond to Contractor's EAP or managed Behavioral Health Services client satisfaction survey express satisfaction with the timeliness of their first appointment, the County may impose a penalty on Contractor of 0.25% of the fees at risk for each percentage point below 90%, up to an annual maximum of 1.5% of the fees at risk during the subject contract year, provided, however, such penalty may be imposed only if the number of respondents to the survey is 50 or more in the subject contract year.</p> <p><b>6. CISM Response Timeliness</b> If Contractor fails to (i) respond telephonically to a request to assess or triage a need for CISM Services within 30 minutes of Contractor's notice of a traumatic event and (ii) have a CISM consultant onsite within 2 hours, where it is mutually agreed to be clinically appropriate, then the County may impose a penalty on Contractor of \$250.00 per instance per benchmark, up to an annual maximum of 0.75% per benchmark of the EAP fees at risk during the subject contract year.</p>	<p>Total number of calls on the toll-free telephone line used for County Members and Participants abandoned after completion of any appropriate leader greeting divided by total number of calls received on that telephone line.</p> <p><u>Measurement Methodology</u> Satisfaction is measured by tabulating the number of account specific respondents that give a positive rating of 3 (Good), or higher, on a scale of 1-to-5, with 1(Poor) being the lowest score and 5 (Excellent) being the highest, to the single question regarding the amount of time the individual had to wait for his/her first appointment question on the EAP or managed Behavioral Health Services client satisfaction survey divided by the number of respondents to that particular question.</p> <p><u>Measurement Methodology</u> Compliance will be determined by calculating the difference between the time of the initial report of an event/request for services and the time of (i) the return call from Contractor's CISM unit and (ii) the arrival of the CISM consultant at the affected County worksite.</p>
<p><b>Appeals</b></p>	<p><b>7. Resolution of Appeals</b> If Contractor fails to resolve 100% of first level appeals of Medical Necessity determinations within the benchmarks below, the County may impose a penalty on Contractor of \$500.00 for each appeal not meeting benchmark, up to an annual maximum of 1.5% of the managed Behavioral Health Services fees and EAP fees at risk for the subject contract year.</p>	<p><u>Measurement Methodology:</u> Compliance will be calculated by dividing the number of appeal decisions meeting the standards by the number of appeal decisions rendered during the reporting period.</p>

	<p><u><b>Benchmarks:</b></u></p> <ul style="list-style-type: none"> <li>● <b><i>Urgent appeals</i></b> -- appeal determination and verbal notification within the shorter of one (1) business day or 72 hours of receipt of the appeal request. Urgent appeals are granted if the decision timeframe of a standard appeal (i) could seriously jeopardize the life or health of the Member; (ii) could seriously jeopardize the ability of the Member to regain maximum function; (iii) would, in the opinion of a physician with knowledge of the Member's medical condition, subject the Member to severe pain that cannot be adequately managed without the requested services; or (iv) if, in the opinion of a physician with knowledge of the Member's medical condition, the Member's condition is urgent.</li> <li>● <b><i>Standard pre-service appeals</i></b> - appeal determination and written notification to be sent to the Member within 15 calendar days from receipt of the appeal request. Standard pre-service appeals are granted when the criteria for an urgent appeal are not met and treatment has not been delivered.</li> <li>● <b><i>Standard post-service appeals</i></b> - appeal determination and written notification to be sent to the Member within 30 calendar days from receipt of the appeal request. Standard post-service appeals are granted when the treatment has been delivered already.</li> </ul>	
<b>Claims</b>	<p><b>8. Claims Financial Accuracy</b> If Contractor fails to pay accurately at least 99% of claims dollars paid, the County may impose a penalty on Contractor of 0.5% of the managed Behavioral Health Services fees at risk for each percentage point below 99%, up to an annual maximum of 1.5% of the managed Behavioral Health Services fees at risk for the subject contract year.</p> <p><b>9. Timely Claims Processing (or Turnaround Time)</b> If Contractor fails to process (pay or deny) at least 95 percent of clean claims within 30 calendar days, the County may impose a penalty on Contractor of 0.25% of the managed Behavioral Health Services fees at risk for each percentage point below 95%, up to an annual maximum of 1.5% of the managed Behavioral Health Services fees at risk for the subject contract year.</p>	<p><u><b>Measurement Methodology:</b></u> Total dollars paid <b>minus</b> total of dollars incorrectly paid (over and underpaid) <b>divided</b> by total dollars paid. This is determined on the basis of an audit sample.</p> <p><u><b>Measurement Methodology:</b></u> Date claim received, <b>minus</b> date "clean claim" processed.</p> <p>A "clean claim" is a claim that has no defect, impropriety or special circumstance, including incomplete documentation that delays timely payment. A claim that was submitted with all required information and has been pended for internal Contractor actions, such as research of eligibility or provider rates, is still a clean claim. Generally, a claim that is not clean is given a denied status and the explanation to the claimant explains what corrective actions are needed to perfect the claim.</p>

<p><b>Account Management</b></p>	<p><b>10. Timely Customer Reports</b> If Contractor fails to furnish to the County quarterly customer reports within 45 days after the end of each contract quarter, the County may impose a penalty on Contractor of 0.25% of the managed Behavioral Health Services fees and 0.25 of the EAP fees at risk for each business day beyond 45 days, up to an annual maximum of 1.5% of the managed Behavioral Health Services fees and EAP fees at risk for the subject contract year.</p> <p><b>11. Customer Satisfaction: Satisfaction with Account Management</b> If Contractor fails to achieve an average score of 4 (Satisfied), or greater on the single overall Account Executive satisfaction question, using a scale of 1-to-5 (with 1, Very Dissatisfied, being the lowest and 5, Very Satisfied, being the highest on the rating scale) from the County's liaison(s) who respond to Contractor's Customer Satisfaction Questionnaire, the County may impose a penalty on Contractor of 0.75% for each point less than 4 up to an annual maximum of 1.5% of the managed Behavioral Health Services fees and EAP fees at risk for the subject contract year at the County's discretion.</p> <p><b>12. Customer Satisfaction: Annual Account Implementation Satisfaction</b> <u>Contract Years 2 and 3 only:</u> If Contractor fails to achieve an average score of 4 (Agree) or greater on the single overall satisfaction with the annual implementation question, using a scale of 1-to-5 (with 1, Strongly Disagree, being the lowest and 5, Strongly Agree, being the highest) from County customer liaison(s) who respond to Contractor's Account Implementation Satisfaction Questionnaire the County may impose a penalty on Contractor of up to 1.5% of the managed Behavioral Health Services fees and EAP fees at risk for the subject contract year at the County's discretion.</p>	<p><u>Measurement Methodology:</u> Account Executive logs date customer reports are e-mailed to the County.</p> <p><u>Administration Methodology:</u> An annually administered, mail-based survey.</p> <p><u>Measurement Methodology:</u> Overall satisfaction is measured by tabulating the score of customer specific respondents that give a rating to the single overall Account Executive satisfaction question on the questionnaire, divided by the number of respondents to the specific question.</p> <p><u>Administration Methodology:</u> Upon completion of the annual implementation of the account, a survey will be mailed to the County liaisons in September of 2008 and 2009, respectively.</p> <p><u>Measurement Methodology:</u> Overall satisfaction is measured by tabulating the score of customer specific respondents that give a rating to the single overall annual implementation satisfaction question on the questionnaire, divided by the number of respondents to the specific question.</p>
<p><b>Network</b></p>	<p><b>13. Access to Counselors and Participating Providers</b> If Contractor fails to provide access to an EAP Counselor and certain Participating Providers within the parameters and definitions stated below, the County may impose a penalty on Contractor for each failed benchmark, as outlined below, up to an annual maximum of</p>	<p><u>Definitions:</u></p> <ul style="list-style-type: none"> <li>● Access is the percentage of Members and/or Participants, as applicable, covered within established distance standards of providers.</li> <li>● Urban areas defined as areas with greater than 3,000</li> </ul>

	<p>1.5% of the managed Behavioral Health Services and EAP fees at risk for the subject contract year:</p> <ul style="list-style-type: none"> <li>95% of County Members' and Participants' residence locations will have access to an EAP Counselor within the following parameters: <ul style="list-style-type: none"> <li>Urban – 5 EAP Counselors within 10 miles (Penalty: 0.25% of the EAP fees at risk per percentage point below 95%)</li> <li>Rural – 2 EAP Counselors within 30 miles (Penalty: 0.25% of the EAP fees at risk per percentage point below 95%)</li> </ul> </li> <li>90% of County Members' residence locations will have access to an outpatient treatment provider within the following parameters: <ul style="list-style-type: none"> <li>Urban – 5 Participating Providers within 10 miles (Penalty: 0.25% of the managed Behavioral Health Service fees at risk per percentage point below 90%)</li> <li>Rural – 2 Participating Providers within 30 miles (Penalty: 0.25% of the managed Behavioral Health Service fees at risk per percentage point below 90%)</li> </ul> </li> <li>90% of County Members' residence locations will have access to an inpatient treatment facility within the following parameters: <ul style="list-style-type: none"> <li>Urban – 5 Participating Providers within 25 miles (Penalty: 0.25% of the managed Behavioral Health Service fees at risk per percentage point below 90%)</li> <li>Rural – 2 Participating Providers within 60 miles (Penalty: 0.25% of the managed Behavioral Health Service fees at risk per percentage point below 90%)</li> </ul> </li> </ul>	<p>persons per square mile – in any square mile in the zip code.</p> <ul style="list-style-type: none"> <li>Suburban areas defined as areas with 1000-3000 persons per square mile – in any square mile in the zip code, and</li> <li>Rural areas defined as areas with fewer than 1000-3000 persons per square mile – in any square mile in the zip code.</li> </ul>
<b>Communications</b>	<p><b>14. Wallet Cards</b></p> <p>If Contractor fails to produce and deliver wallet cards 20 business days from the time the final order is placed, the County may impose a penalty on Contractor of 0.25% of the managed Behavioral Health Service fees at risk for each business day exceeding the agreed upon timelines, up to an annual maximum of 1.5% of the managed Behavioral Health Services fees at risk for the subject contract year.</p>	<p><u>Measurement Methodology:</u> Account Executive logs date the County orders wallet cards and the date the County received the wallet cards.</p>

**B. Calculation and Payment**

The performance guarantees set forth above shall be effective commencing on the effective date of the Contract, provided, the performance guarantees shall not be effective for any year in which less than six (6) months of Contractor performance can be measured against the performance guarantees. The penalties, if any, will be calculated within ninety (90) days after the end of each calendar quarter. All such calculations will be made on a quarterly basis, however, if the performance guarantees are in effect for a period of eleven (11) months or less in any year, the penalties will be calculated on a pro rata basis commensurate with the number of months the guarantees were in effect. The total amount of the penalties assessed shall not exceed, collectively, fifteen percent (15%) per year of the annual fees at risk. The annual fees at risk for each contract year are as follows:

	<u>Contract Year 1</u>	<u>Contract Year 2</u>	<u>Contract Year 3</u>
EAP	\$1.13 per Employee per Month	\$1.16 per Employee per month	\$1.20 per Employee per month
Behavioral Health Services	\$2.36 per Subscriber per Month	\$2.44 per Subscriber per month	\$2.52 per Subscriber per month

**C. Force Majeure**

Any performance by Contractor under this Contract that is hindered, delayed, or rendered impossible because of any external telecommunications system failure; refusal or delay of any Provider to cooperate with Contractor's reasonable request for clinical information; provision of inaccurate or incomplete information by the County, a Participant, Member or a Provider; any act of duly constituted governmental authority; flood; fire; riot; civil disturbance; war; act of terrorism; act of God; or any other circumstance beyond Contractor's control shall not be considered in calculating penalties for failure to satisfy performance guarantees.

**D. Initial Implementation Performance Guarantee**

If the County program has not been successfully implemented by the end of the designated implementation period, as measured by the following significant milestones, Contractor agrees to pay County a one-time liquidated damages fee of \$5,000.00 for each of the milestones not completed according to the mutually agreed upon plan dates, up to a maximum of \$25,000.00. Contractor shall not be obligated to pay County in connection with any failure to meet a milestone resulting from a material act or omission by County.

**Milestones:**

- Development of consolidated EAP and MBH policies and procedures completed by 11/1/06.
- Development and implementation of orientation and training plan by 11/01/06.
- Employee communications and promotional plan developed and executed by 12/1/06.
- Completion of clinical operations training on account specific nuances and program flows by 6/1/07.
- Phone lines and intake staff operational on or before 6/15/07.

Maricopa County Implementation Milestones  
EAP/Legal Financial/MHSA/Claims Program

**EXHIBIT B-2**

<b>IMPLEMENTATION ACTIVITIES</b>	<b>TARGETED COMPLETION DATE</b>
Conduct implementation kick off meeting with Maricopa County	14-Jul-06
Activate implementation team	28-Jul-06
Review network and complete focused MHSA & EAP provider recruitment mailings as applicable	01-Sep-06
Begin meetings with STD vendor	06-Oct-06
Complete development of consolidated EAP and MBH policies and procedures	01-Nov-06
Development and implementation of orientation and training plan	01-Nov-06
Develop and execute employee communications and promotional plan	01-Dec-06
Complete Maricopa County and Magellan contracting process	16-Feb-07
Confirm benefit plan design and complete configuration in Magellan system	23-Feb-07
Finalize EAP policies and procedures	28-Feb-07
Finalize STD case coordination and case management protocols	28-Feb-07
Implement MHSA and EAP clinical transition protocols with incumbent vendors	30-Mar-07
Review Mixed Service Protocols with medical carrier	30-Mar-07
Review and finalize denial and appeals processes	30-Mar-07
Complete testing of benefit plan design	30-Mar-07
Receive and load eligibility test files	30-Mar-07
Deliver communication materials to Maricopa County employees	06-Apr-07
Finalize claims processing procedures and complete claims funding process	27-Apr-07
Receive and load full eligibility production file	04-May-07
Enter Maricopa County program information into Magellan system	25-May-07
Conduct Maricopa County trainings and orientations	31-May-07
Complete Magellan team trainings	01-Jun-07
Test and activate Maricopa County dedicated telephone line	15-Jun-07
Launch MagellanHealth.com web based services	15-Jun-07
Program services launch	01-Jul-07
Schedule first program evaluation meeting	03-Dec-07

**ATTACHMENT**

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**Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)  
(Public Law 104-191)  
Business Associate Provisions**

This Attachment sets out the HIPAA-related responsibilities and obligations of Contractor pursuant to the Contract between Contractor and Department.

**1. Definitions**

- A. Business Associate means an entity that performs or assists in the performance of a function on behalf of a Covered Entity, which involves the use, or disclosure of Individually Identifiable Health Information as defined in 45 C.F.R. § 160.103. Contractor is a Business Associate of Department under this Contract, and for purposes of Contractor’s obligations under this Attachment “H”, the terms “Business Associate” and “Contractor” are synonymous. Notwithstanding this definition, if Contractor does not have access to or create Protected Health Information under this Contract, Contractor is not a Business Associate, and the terms of this Attachment do not apply to Contractor.
- B. Contract means the entire agreement between the parties.
- C. Contractor for purposes of this Attachment means any party to this Contract, which is not a department of Maricopa County government.
- D. Covered Entity means a health plan, a health care clearinghouse, or a health care provider that transmits any health information in electronic form in connection with a transaction covered by HIPAA as defined in 45 C.F.R. § 160.103. Department or a part of Department, as designated by Maricopa County, is a Covered Entity under this Contract.
- E. Data Aggregation means the function of combining the Protected Health Information received by a Business Associate from another Covered Entity with that of Covered Entity, to allow data analyses related to the health care operations of the covered entities as defined in 45 C.F.R. § 164.501.
- F. Department means the party to this Contract that is part of Maricopa County government.
- G. HIPAA refers to the Health Insurance Portability and Accountability Act of 1996 (PL 104-191) and the United States Department of Health and Human Services’ (DHHS) final regulations on “Privacy Standards for Individually Identifiable Health Information,” which comprise 45 C.F.R. Parts 160 and 164, as amended and modified from time to time.
- H. Individual means the Individual who is the subject of the Protected Health Information.
- I. Individually Identifiable Health Information (“Protected Health Information”) is health information that is created or received by a Covered Entity; and relates to the physical condition, mental health or other health condition of an Individual, or to the provision of health care to the Individual (including but not limited to the payment for such health care); and identifies or can be used to identify the Individual as defined in 45 C.F.R. § 160.103.
- J. Security incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

**2. Permitted and Required Uses and Disclosure of Protected Health Information**

- A. Permitted Uses and Disclosures: Business Associate is permitted to use and disclose Protected Health Information only for those purposes necessary to perform its duties, obligations and

**ATTACHMENT**

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**Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)**  
**(Public Law 104-191)**  
**Business Associate Provisions**

functions under this Contract, or as otherwise expressly permitted in this Contract or as required by law, including as follows:

- i. To the Individual;
- ii. For treatment, payment, or health care operations, as permitted by and in compliance with § 164.506 of HIPAA;
- iii. Incident to a use or disclosure otherwise permitted or required by §§ 164.500 through 164.534, provided that the Contractor has complied with the applicable requirements of § 164.502(b), § 164.514(d), and § 164.530(c), all of HIPAA, with respect to such otherwise permitted or required use and disclosure;
- iv. Pursuant to and in compliance with an authorization that complies with § 164.508 of HIPAA;
- v. Pursuant to an agreement under, or as otherwise permitted by, § 164.510 of HIPAA; and
- vi. As permitted by and in compliance with § 164.502, § 164.512, or § 164.514(e), (f), or (g) of HIPAA.

B. Required disclosures: Business Associate is required to disclose Protected Health Information and/or other information as follows:

- i. To an Individual, when requested under, and as required by §§ 164.524 or 164.528 of HIPAA;
- ii. When required by DHHS, Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Department available to DHHS for purposes of determining compliance with HIPAA. Notwithstanding this provision, no attorney-client, accountant-client or other legal privilege will be deemed waived by Business Associate or Department as a result of this section; and
- iii. When required by Department, Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Department available to Department.

C. Prohibited Use or Disclosure and Exceptions: Business Associate shall not use or further disclose Protected Health Information in a manner that would violate HIPAA, except that:

- i. Business Associate may use and disclose Protected Health Information for the proper management and administration of Business Associate, or to carry out the legal responsibilities of Business Associate, if:
  - a. The disclosure is required by law; or
  - b. Business Associate obtains reasonable written assurances from the person to whom Protected Health Information is disclosed that it will be held confidentially and used or further disclosed only as required by HIPAA or other applicable laws or for the purpose for which it was disclosed to the person; and



**ATTACHMENT**

**Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)  
(Public Law 104-191)  
Business Associate Provisions**

The person notifies Business Associate of any instances of which it is aware in which the confidentiality of Protected Health Information has been breached.

- ii. Business Associate may provide Data Aggregation services relating to the health care operations of the Covered Entity.

**3. Business Associate agrees that it shall:**

- A. Not use or further disclose Protected Health Information other than as permitted or required by this Contract or as permitted or required by HIPAA;
- B. Implement appropriate safeguards to prevent any use or disclosure of Protected Health Information not otherwise permitted in this Contract. Business Associate also will implement administrative, physical and technical safeguards to protect the confidentiality, integrity, and availability of the electronic Protected Health Information, if any, that Business Associate creates, receives, maintains, or transmits on behalf of Department;
- C. Report to Department any use or disclosure of Protected Health Information not permitted by this Contract within five business days of Business Associate’s learning of such use or disclosure. Business Associate also will report to Department any Security Incident of which it becomes aware that affects electronic Protected Health Information created, received, maintained or transmitted, if any, on behalf of Department within five business days of Business Associate’s learning of such Security Incident;
  - D. Ensure Department that any of Business Associate’s agents, including its contractors and subcontractors (collectively, “agents.”) to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Department, agrees to the same restrictions and conditions that apply to the Business Associate with respect to such information and agrees to implement reasonable and appropriate safeguards to protect it;
  - E. Make available Protected Health Information to the Department so that the Department can comply with § 164.524 of HIPAA;
  - F. Make available Protected Health Information for amendment and incorporate any amendments made by the Individual and approved by the Department to Protected Health Information in accordance with § 164.526 of HIPAA;
  - G. Make available the information required for the Department to provide an accounting of disclosures in accordance with § 164.528 of HIPAA;
- H. At termination of this Contract, return or destroy all Protected Health Information received from, or created or received by Business Associate on behalf of, Department that Business Associate or its agents still maintain in any form and retain no copies of such information. If the Protected Health Information is destroyed, Business Associate shall provide Department with an affidavit to that effect. If such return or destruction is not feasible, Business Associate agrees that it shall extend the protections of this Contract to Protected Health Information and limit further uses and disclosures to those purposes that make the return or destruction of Protected Health Information unfeasible; and

**ATTACHMENT****Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)  
(Public Law 104-191)  
Business Associate Provisions****4. Termination by Department**

In accordance with other termination provisions of this Contract, Business Associate agrees that Department may terminate this Contract, if Department determines that Business Associate has violated a material term of this Attachment.

**5. Indemnification**

In addition to its other indemnification obligations pursuant to this Contract, Business Associate shall defend, indemnify and hold Maricopa County, Department, its agents, representatives, officers, directors, officials and employees harmless from and against any and all claims, suits, expenses (including reasonable attorneys’ fees and court costs), liabilities or damages (whether resulting from settlement, judgment, arbitration or otherwise) arising directly or indirectly from Business Associate’s and/or Business Associate’s agents’ violation of HIPAA in connection with this Contract. This indemnification provision and Business Associate’s indemnification obligations shall survive the termination of this Contract.

**6. No Third Party Beneficiaries**

Nothing express or implied in this Attachment is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

**7. Amendment to Comply with Law**

The Parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Attachment may be required to ensure compliance with such developments. Should such developments occur, and upon either Party’s good faith request, the other Party agrees to enter good faith negotiations concerning the terms of an amendment to this Attachment.

**ATTACHMENT**

**Health Insurance Portability and Accountability Act of 1996 ("HIPAA")  
(Public Law 104-191)  
Business Associate Provisions**

**8. Conflict with Other Terms and Conditions**

In the event of a conflict between this Attachment and other terms and conditions agreed to by the parties, the Attachment shall control with respect to its subject matter.

MAGELLAN BEHAVIORAL HEALTH, INC.  
FIRMS NAME  
LEE W. TUVESON  
PERSON SIGNING (PLEASE PRINT)  
Lee W. Tuveson  
SIGNATURE  
16 June 2006  
DATE

**MAGELLAN HEALTH SERVICES, W145N5275 THORNHILL DRIVE, MENOMONEE FALLS, WI 53051**

PRICING SHEET: S073603/B0605750/NIGP 94848

Terms:	NET 10 AFTER END OF MONTH
Vendor Number:	W000006227 X
Telephone Number:	262/790-0490
Fax Number:	262/790-0491
Contact Person:	Linda Meihnsner
E-mail Address:	<a href="mailto:lsmeihnsner@magellanhealth.com">lsmeihnsner@magellanhealth.com</a>
Company Web Site:	<a href="http://www.magellanhealth.com">www.magellanhealth.com</a>
Certificates of Insurance	Required
Contract Period:	To cover the period ending <b>June 30, 2010.</b>